

REMARKS

Claims 10-20 are now pending in the application.

The abstract was objected to in the office action for not complying with the requirements of MPEP § 608.01(b), because of the inclusion of legal phraseology. Applicants are including herewith an amended abstract which complies with the formal requirements cited in the Office Action.

In the office Action, claims 13-16 were objected to under 37 C.F.R. 1.75(c) as being of improper dependent form. Applicants have amended claims 15 and 16 to more clearly define the invention. Amended claim 15 limits the method to carrying out the test as a function of the intended gear for the gearwheel variable-speed transmission, as explained in the specification, for example in paragraph 31. Amended claim 16 limits the method to variables which describe at least one of a roadway inclination, a roadway condition, an ambient temperature, a geodetic height and an ambient pressure, as described in the specification, for example in paragraph 32.

Claims 10-20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants have amended claims 10, 14, 16 and 20 to provide the proper antecedent basis to the elements referred to in the office action. Claims 10-20 are now submitted to be definite.

Claims 10-20 were rejected under 35 U.S.C. 102(b) as being anticipated by Chan (US Patent 5,441,462). Chan describes a control system and method for controlling the engagement and disengagement of a clutch . A central processing unit 42 controls a clutch operator 30 to engage and disengage the master clutch 16, and selects, in accordance with predetermined logic rules and various parameters, the optimum gear ratio at which the transmission should be operated, to then command a gear change if necessary. (Col. 3, lines 45-68.)

According to Chan, for an upshift into a target gear ratio and for a downshift into a target gear ratio, the clutch is first disengaged to allow shifting to neutral, and then is re-engaged after the shift. (Col. 4, lines 9-36.) Under certain circumstances, to prevent lurching, the clutch may not be completely disengaged, or may be quickly re-engaged after being disengaged, to help synchronizing input and output shafts. (Col. 5, lines 4-14.) This procedure is carried out every time the transmission is shifted (Col. 1, lines 52-57.) However, nowhere does Chan describe selecting, while in normal operation, whether to conduct the gear change with the clutch engaged or disengaged, and further executing the gear change with the clutch disengaged only when specific conditions exist.

In contrast, the present invention recites in claim 10 that the control device makes a selection whether the automatic clutch remains engaged or disengaged when a gear change takes place. Claim 10 also recites that the gear

change is executed exclusively with the clutch disengaged under at least one of the following two situations: after an initial starting-up of the drive train until all of the vehicle parameters and variables which are relevant for the selection have been determined by the control device, and when a malfunction is identified in a component of the drive train. Specifically, as explained in paragraph 17 of the specification, by initial starting-up it is meant that the starting up of the drive train after the manufacture of the motor vehicle, or starting up after replacement of an element of the drive train, for example of the drive machine.

The cited reference does not describe or suggest that under certain circumstances, such as after the initial starting up and after a failure of the control system, the gear change is executed with the clutch disengaged. Because Chan does not describe or suggest these recited elements, applicants respectfully submit that claim 10 is not anticipated by the cited reference, and is allowable. Claims 11-20 depend from allowable claims, and at least for that reason are also submitted to be allowable.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #095309.56039US).

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